

REMARKS

Claim Rejections - 35 USC § 112

Claims 1-9 currently stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant has noted the specific comments outlined by the Examiner and has further reviewed each of the pending claims to ensure no other § 112 issues remain. In view of the amendments presented herein, reconsideration is respectfully requested.

Claim Rejections - 35 USC § 102

Claims 1-2, 8-9 currently stand rejected under 35 USC § 102(b) as being clearly anticipated by Garbagnati (5,215,182). However, the Examiner has not explained the basis for such rejection and, therefore, Applicant is left to attempt to distinguish the present application. If Applicant is unsuccessful in convincing the Examiner, it is respectfully requested that the Examiner send a new non-final office action which explains the basis for any rejections made therein.

As the Examiner is well aware, a rejection under 35 U.S.C. § 102(b) can only be maintained if a single reference teaches each and every element of the claims. If there are any differences whatsoever between the reference and the claim(s), the rejection cannot be based on 35 U.S.C. § 102. Titanium Metals Corp. v. Banner, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985).

Applicant respectfully submits that the Examiner has overlooked a crucial claimed feature of claim 1 wherein each axis (61 to 66) is supported by at least four sidewalls.

In this regard, claim 1 recites “a plurality of support bases (7) aligned in the transversal direction (T), each support base (7). . . bearing at least two mutually parallel side walls (51 and 54).

Thus, since “a plurality of support bases” mandates at least two elements and each support base bears at least two mutually parallel side walls (51 and 54), at a minimum, there are at least four side walls.

In contrast, as shown in Figure 2, Garbagnati only discloses the use of two mutually parallel side walls 18 and 18’.

In view of the foregoing, Applicant respectfully submits that Garbagnati fails to teach each and every element of the present claims.

Claim Rejections - 35 USC § 103

Claims 1-2, 5, 8-9 currently stand rejected under 35 USC § 103(a) as being unpatentable over Garbagnati (5,215,182).

Again, Applicant notes that a sufficient explanation for the basis of the rejection is lacking. The Examiner summarily notes that it would have been obvious to modify Garbagnati (5,215,182) to provide a complete row in order to accommodate practical considerations.

The Examiner currently notes that Garbagnati (5,215,182) is silent on aligned multiple support bases and thus has indicated that claims 3-4 and 6-7 are directed to allowable subject matter.

Initially, Applicants note that in order to support a rejection under 35 U.S.C. §103, the Examiner must establish that there is some suggestion, either in the reference or in the relevant art, of how to modify what is disclosed to arrive at the claimed invention. In addition, "[s]omething in the prior art as a whole must suggest the desirability, and, thus, the obviousness, of making the modification to the art suggested by the Examiner.

Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1051, 5 U.S.P.Q.2d (BNA) 1434, 1438 (Fed. Cir.), *cert. denied*, 488 U.S. 825 (1988). That is, although the Examiner may suggest that the teachings of a primary reference could be modified to arrive at the claimed subject matter, the modification is not obvious unless the prior art also suggests the *desirability* of such modification. *In re Laskowski*, 871 F.2d 115, 117, 10 U.S.P.Q.2d (BNA) 1397, 1398 (Fed. Cir. 1989).

In view of the distinctions noted above in response to the rejections under § 102(b), Applicant notes that Garbagnati fails to provide the requisite motivation for a passive conveyor employing at least four parallel side walls. As noted in the application as filed on page 4, line 30 - page 5, line 10, the means of rolling the conveyor are comprised of rollers assembled on the axes (plural) which are afforded by the plurality of side walls. Applicant submits that Garbagnati does not provide the requisite motivation for modification in this regard and wholly fails to recognize the desirability of such modification. Reconsideration is therefore respectfully requested.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: March 21, 2005

By: Robert M. Siminski
Robert M. Siminski, Reg. No. 36,007

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

RMS/jal